



Protecting Our National Sovereignty

By U.S. Sen. John Cornyn

Our state, and our country, are struggling to keep up with the effects of globalization—the increasingly free flow of ideas, information, goods and capital across borders and around the world.

One major challenge is making certain that our national sovereignty is protected, even as international commerce increases. This is no small matter. Our sovereignty is the foundation for our freedom.

Sovereignty should rest strictly with the American people. We cannot allow a foreign country or an international organization to make decisions that should be our own exclusive province, based on our own national interests.

The U.S. Senate is currently debating the Law of the Sea Treaty (LOST), a document that I believe poses a threat to these concepts. The treaty has been signed by 155 countries. But President Reagan rejected it in 1982, and the Senate refused to ratify a different version approved by President Clinton in 1994. Now it's back.

LOST sets up an international bureaucracy under the United Nations that would control the world's oceans and everything in them as “the common heritage of mankind.” Any revenues produced by exploiting resources, such as oil discovered in international waters, would be allocated and divided by international tribunals.

LOST agencies would have authority to levy royalties and fees—effectively the first international tax. Some critics believe the treaty would lead to decisions by an international tribunal regulating the environment, not only in the ocean but all over the globe.

The Bush Administration is pushing the Senate to ratify the treaty this time. It's needed to ensure that our Navy can navigate anywhere, it says, and to protect our ability to share in undersea resources, such as petroleum that might be found under the Arctic Circle.

In my view, our historical experience with international organizations has not been satisfactory. We are often outvoted, without good cause. The United Nations has earned a dismal and deteriorating record for corruption, highlighted by complicity in the largest fraud in history, the Iraq oil-for-food scandal. More recently, the U.N. has been accused of tolerating bribes and kickbacks in dispensing aid to tsunami victims in Southeast Asia.

U.N. efforts have been particularly ineffectual in resolving real conflicts. I believe the best insurance for orderly management of the high seas—and effective protection of U.S. sovereign interests—is a strong U.S. Navy. This concept has served us well for 200 years.

In mid-October, the U.S. Supreme Court heard arguments on a criminal case from Texas that poses yet another threat to our sovereignty. The case involved Jose Ernesto Medellin, a foreign citizen convicted and sentenced to death in 1994 in the brutal rape and murder of two teenage girls in Houston.

Long after his sentence was final, Medellin's lawyers came up with a new appeal point. They argued that because Medellin was not a U.S. citizen, and under the Vienna Convention the Mexican consulate should have been notified when he was arrested, his appeal should be reopened. This argument was accepted in 2004 by a foreign tribunal, the International Court of Justice in The Hague.

Medellin was indeed born in Mexico, but lived in the U.S. most of his life. He speaks, reads and writes English, and attended U.S. schools. Disappointingly, the Bush Administration has issued a directive to Texas officials attempting to enforce the foreign court's judgment, and also backed Medellin's side at the U.S. Supreme Court.

I have argued that the President lacks constitutional authority to direct Texas to reopen Medellin's conviction. In my opinion, the President cannot by himself transform an international treaty, and especially a foreign court's judgment, into domestic law.

In recent years, some Supreme Court Justices have shown a willingness to cite the law of other countries as support for their interpretation of the U.S. Constitution. That's yet another unwelcome trend, in my opinion.

The U.S. constitutional system is the product of our unique American experience. It has produced the most successful country in history, a nation that has been “the shining city on the hill” to the rest of the world.

We should do everything possible to protect that legacy. The world depends upon our leadership.

Sen. Cornyn serves on the Armed Services, Judiciary and Budget Committees. In addition, he is Vice Chairman of the Senate Select Committee on Ethics. He serves as the top Republican on the Judiciary Committee's Immigration, Border Security and Refugees subcommittee and the Armed Services Committee's Airland subcommittee. Cornyn served previously as Texas Attorney General, Texas Supreme Court Justice and Bexar County District Judge. For Sen. Cornyn's previous Texas Times columns: www.cornyn.senate.gov/column.